

APPENDIX A

**JURY SUBCOMMITTEE -- REPORT ON PILOT PROJECT
ALLOWING JUROR QUESTIONS**

We are pleased to present the Jury Sub-Committee's Report on the outcome of the Pilot Project authorized by the Supreme Court, at the Civil Practice Committee's recommendation, allowing jurors to submit questions for witnesses in civil trials.

PILOT PROJECT FEATURES

The Supreme Court authorized the juror question-asking pilot project for civil trials during the period January through June 2000. Eleven trial judges in eleven different vicinages participated in the pilot project:

Hon. Charles J. Walsh	Bergen
Hon. Jan M. Schlesinger ¹	Burlington
Hon. John T. McNeill, III	Camden
Hon. Donald A. Smith	Gloucester
Hon. Thomas P. Olivieri	Hudson
Hon. Paulette M. Sapp-Peterson	Mercer
Hon. Yolanda Ciccone	Middlesex
Hon. Catherine M. Langlois	Morris
Hon. Marlene Lynch Ford	Ocean
Hon. Helen Hoens	Somerset
Hon. Rudy B. Coleman	Union

RATIONALE

The theory behind this innovation in trial procedure is that jurors who are permitted to ask the questions that are on their minds will have a greater appreciation for the

¹ We are saddened by Judge Schlesinger's death last fall, several months after the project ended.

importance of their role, take their responsibility more seriously, and be more attentive, thus ensuring a more reasoned deliberative process and a more just outcome. It is also theorized that jury service will be a more satisfying experience, with resulting benefits to public confidence in the judicial system.

No study of actual trials can measure the results against the theory in any scientifically reliable way. However, the questionnaires completed by the jurors, judges, and attorneys gave us significant information - including the fact that out of 127 trials conducted by 11 judges in as many counties, no one suggested that the process had an unfair effect on the outcome of the trial.

It is our perception that there need be no tension between the goal of a trial as a search for truth and justice, and the method of the adversarial process. Based on the experience gained in the pilot project, we recommend to the Civil Practice Committee, for its recommendation to the Supreme Court, the adoption of a rule permitting each judge presiding over a civil trial, in his or her discretion, to employ the jury question procedures essentially as set forth in the pilot. It has been reported that in approximately half the states, either by rule or informal practice, juror questions are permitted, and in many of those states the practice is not limited to civil trials. See Commonwealth v. Britto, 2001 WL 303736 at *9 n.6, 433 Mass. 596 (Sup. Jud. Ct. 2001)(affirming a felony murder conviction and rejecting the defendant's argument that by allowing jurors to submit questions for the witnesses, the judge deprived defendant of a fair trial.) That Court held that allowing juror questioning

"rests in the sound discretion of the trial judge." Id. at *9-*11.

SUMMARY OF RESULTS

Even before the end of the six-month pilot, it was apparent that jurors and judges were reacting very favorably, whereas attorney reaction was mixed. After the conclusion of the pilot and a review of the written responses to our questionnaires, those early reactions were confirmed. The jurors virtually all loved it. The judges, some of whom initially were skeptical, were very pleased with how well the process worked. Many wanted to continue the procedure after the end of the pilot period. The attorneys' responses were measured, although a majority favored the procedure. More defense attorneys expressed negative views than plaintiffs' attorneys, the primary concerns being interference with trial strategy and control of witnesses. Most of those who expressed such concerns appeared to refer not to the trials just concluded, but to potential problems in future cases.

KEY PILOT PROJECT PROCEDURES²

The Sub-committee designed the pilot with attention to State v. Jumpp, 261 N.J. Super. 514, certif. denied, 134 N.J. 474 (1993) (noting that other jurisdictions "...generally approved this practice and found that the trial court has discretion to authorize it." Id. at 529.) In Jumpp, the Appellate Division directed trial courts to refrain from allowing jurors to ask questions until the Supreme Court thoroughly considered the issue and established "precise guidelines and procedures." Id. at 534.

² A copy of the Project Guidelines, including preliminary and final juror instructions, is attached to this Report.

In developing the pilot project, the committee examined the procedures used in other jurisdictions, particularly Arizona and Massachusetts³, spoke with judges in those jurisdictions, and drew heavily upon the recommendations set forth in two publications: that of the ABA Section on Litigation, Civil Trial Practice Standards (February 1998), and Jury Trial Innovations - a joint effort of the ABA, State Justice Institute, and the National Center for State Courts (compiled by G. Thomas Munsterman, et al.).⁴

The key features of the pilot were: (1) the trial judge would determine at the start of each trial whether jurors would be permitted to ask questions in that trial; (2) in making that decision, the judge would consider counsels' views but consent of counsel was not a condition for permitting questions; (3) the judge would explain to the jurors at the outset that they would be permitted to ask questions to clarify a witness's testimony, not to argue with a witness,

³ The results of an extensive one-year pilot conducted in Massachusetts have just been completed. Hannaford and Munsterman, "Draft Final Report for the Massachusetts Project on Innovative Jury Trial Practices" (National Center for State Courts). The Massachusetts pilot was far more extensive than ours and included most of the jury trial innovations proposed by the ABA Section on Litigation. In Commonwealth v. Britto, supra, the Supreme Judicial Court sets forth the approved procedures in Massachusetts courts. 2001 WL 303736 at *11-12.

⁴ During Jury Summit 2001, a nationwide conference on jury matters co-sponsored by national organizations such as the Conference of Chief Justices, the American Judges Association, the Conference of State Court Administrators, and the National Association for Court Management held in February 2001, there was much discussion concerning allowing juror questions. Judges and jury administrators from those states that permit the practice (generally under procedures very similar to those of the pilot), reported that they have not experienced constitutional or procedural difficulties.

and that rules of evidence might make it improper to ask some of their questions; (4) jurors would write out their questions with materials provided by the court and submit those questions to the judge at the conclusion of the testimony of each witness; (5) all juror questions would be reviewed by the judge and counsel on the record but out of the jurors' hearing; (6) the trial judge would consider whether to allow the proposed questions under the same rules of evidence applicable to the attorneys' questions and subject to the same objections; (7) the judge would ask the witness those questions that were deemed admissible; (8) if juror questions were asked of the witness, the attorneys would have an opportunity for follow-up questions of that witness.

QUANTITATIVE RESPONSES TO THE PILOT PROJECT

Separate questionnaires were developed for completion by the trial judge, the attorneys, and the jurors at the end of each trial. Copies of those questionnaires are attached to this Report.

Each questionnaire provided for entry of the type of case, the name of the judge, the length of the trial, an assessment of various aspects of the procedure, an overall opinion as to whether juror questions should be permitted in every civil trial, and a space for open-ended comments. We did not perceive any pattern in the responses related to the type of case, perhaps due to the size of the sample.

We received completed questionnaires from the participants in 127 civil trials over the six month duration of the pilot project. Jurors proposed questions in 121 or 95% of those 127 trials; no juror questions were proposed in 6 trials. A total of 2,540 questions were posed by jurors in 121 trials, or a mean of 21 questions per trial. However,

there were 7 trials that produced more than 50 questions from jurors⁵, and those extremes significantly affected the mean. However, the median number of questions proposed per trial was nine. Those seven trials that produced an unusually large number of questions were only 6% of the 127 pilot project trials. A similar number (six, or 5% of the total pilot trials) produced no juror questions.

More than three-quarters of the questions that were proposed (77%) were allowed by the trial judge and asked of a witness. The judges allowed 1,957 questions to be asked of witnesses, or a mean of 15 questions per trial, with the median being 7 per trial. In 2 trials, none of the few questions submitted were allowed. Thus in a total of 8 trials, no juror questions were submitted to witnesses.

The questionnaires asked the judges and attorneys to estimate how much time was added to the trial because of the procedure. The judges responded to that question for 107 of the 127 trials, and the estimated median time added to the trial was 30 minutes. However, several trials yielded more extreme responses, which would skew the mean.⁶

The questionnaires reveal that the median number of attorney follow-up questions per trial was two, and there was at least one follow-up question in 78% of the trials in which juror questions were asked.

⁵ We do not know the length of one of those 7 trials. Of the other six trials, one lasted 28 days, one 12 days, and the others were 5 days, 3 days, 2 days, and 2 days. The largest number of questions thus did not necessarily occur in the longest cases. It was the five day trial in which the most extreme number of questions -- nearly 250 -- were proposed.

⁶ In the five day trial with 250 questions submitted, the estimated additional time required was 4 hours, or approximately one-half of a trial day.

From the figures cited, it appears that if juror questions were permitted in all civil trials, a composite picture of a typical civil trial (based on median responses to the questionnaires) would look like this:

% of trials in which questions are asked:	95%
median # of questions proposed by jurors:	9
median # of questions approved by the judge:	7
median # of follow-up questions:	2
median amount of time added to trial	30

Interestingly, these results were very similar to those reported in the Massachusetts pilot.

QUALITATIVE RESPONSES TO THE PILOT PROJECT⁷

The key question posed to the trial judges and attorneys was whether question-asking should be permitted in all civil trials.

Judges

Several judges withheld a response after the first few trials, and one judge answered in the negative early on. However, by the end of the pilot, all eleven judges recommended that judges have discretion to allow juror questions in any civil trial.

These are representative comments from six different judges at the conclusion of the pilot:

⁷ We acknowledge with thanks the assistance of Hon. Jack Sabatino, former Associate Dean at Rutgers University School of Law - Camden and the law students at Rutgers - Camden who volunteered to summarize data contained in the questionnaires and to compile the written comments of attorneys and jurors. We thank the following Rutgers students, who provided valuable assistance: Brian Fahl, Benjamin Dash, Amy Ducoff, Melissa A. Graff, Michael Schleigh, and Ann Marie Vassallo. We are also grateful to Mark Knoll, Esq., former law clerk to Judge Wecker, for his assistance in analyzing the responses to the questionnaires.

- #1 I would urge that the practice of permitting juror questions as per the pilot program be made permanent by rule change. I found it to be basically non-disruptive, added little trial time and the positives far outweighed the negatives in terms of juror empowerment, clarification of testimony, etc.
- #2 After being involved with the program for 3 months or so, I started telling the jury panels about the program as part of my preliminary remarks . . . and I noticed in every instance a positive reaction. I think there are a number of people who have a negative feeling about jury service even though the system has improved dramatically over the years, and I feel that this pilot program definitely makes the jurors feel more involved. I think that anything which raises the average interest level in our justice system is a good thing.
- #3 The jury loved asking questions. The trial held their attention because of their ability to ask questions. The jury asked some very informed and revealing questions. However, many of the questions were directed to the wrong witness (e.g., asking a fact witness an expert opinion question).
- #4 I think jury questioning is a terrific idea. In my experience, jury questioning keeps the jury more alert and interested in the case. The questions in many instances are insightful and give attorneys a glimpse of the jury's thinking on the case. I saw no difficulties develop with the program.
- #5 I think we have to carefully assess who is posing the questions. The more articulate, intelligent juror seems to be the one asking the questions and although the less articulate jurors decide not to ask questions, it seemed to me on occasion they were "backing off" and permitting the question askers to "take over." This may be the natural progression during jury deliberation and may just be the personality of the [jurors], who seem to be the ones who are not afraid to speak out, be more outgoing and less concerned with criticism.

One judge gave a particularly comprehensive response:

- #6 When initially asked to consider participating in the project, I was anticipating that the process would be precisely the sort of disaster that many members of the bar believed it would be.

The very idea of letting jurors participate in questioning of the witnesses was one which I was quite confident would be fraught with danger. I thought that the trials would inevitably become bogged down in review of questions which were irrelevant at best and which in the end could not be asked I thought that permitting the jury to dream up questions would improperly alter their focus and lead to chaos. I was not only incorrect about all of those matters, but now that the project has concluded, I find myself yearning for it to be approved for use in the near future. Far from creating the sort of crisis that I anticipated, . . . the jurors were uniformly more focused on the evidence. [T]he questions that they wanted to be asked were by and large relevant and in many cases significant. Indeed, one of the experts who testified told me on the record after the jury had left for the day that he welcomed the questions from the jurors and considered them to be a helpful guide to whether or not they had understood his testimony. No change of course, is completely without controversy, and I suspect that many attorneys will have the same fears and misgivings that I had. But I also suspect that if the program becomes an option, those of us who have experienced it first hand will find that our views of its benefits are soon enough shared by many others. I have been thoroughly convinced of the value of the program and hope that it is approved for future trials.

Attorneys

The final question to both judges and attorneys was:

Do you recommend that jurors be allowed to
submit questions to witnesses in all civil
trials? Yes No

Of the 272 attorneys who were involved in the pilot, 161 or 59% answered "Yes," 99 or 36% answered "No," and 12 or 4% did not answer the question. Fifty percent of the 139 attorneys who identified themselves as defense counsel (69 attorneys) and 69% of the 133 attorneys who identified themselves as plaintiff's counsel (92 attorneys) answered "Yes," recommending the option in all civil trials.

The most common concerns expressed by attorneys were interference with trial strategy and loss of control over witnesses. Another expressed concern was that the judge's control of the process was critical, and that perhaps not all judges would handle the procedure as well as the pilot judge. Virtually all of the attorneys recognized increased juror attention and satisfaction as a result of the procedure. One concern recognized by both judges and attorneys is whether to allow questions of an expert witness who testifies "live" if the opposing expert's testimony is presented by videotape.

These are representative positive comments from attorneys:

- #1 I believe that jurors should be permitted to take notes and ask questions in all trials. It promotes their attentiveness and makes them feel a part of the process. I have always feared jurors' speculation on what they feel they do not know affecting their decision-making. Interviews of jurors by the court or counsel in other cases in federal or other states' courts have shown this fear to be reasonable.
- #2 This was an extremely positive event. I was happy to be part of the experience. Judge _____ has an extremely good disposition to work with the jurors and attorneys to warrant admiration. Under his control, the focus of the jury was greater than any other I've seen.
- #3 The positives of the program are obvious: juror participation and a strong indication as to how jurors feel about a witness's testimony.
- #4 Jurors submitting questions is a good idea as long as the safeguards remain in place to scrutinize and review the proposed questions before the question is posed to the witness. The questions gave me an indication as to what the jury considered significant.
- #5 The questioning did give some insight into what the juror's perceptions were which was beneficial in structuring of the argument.

- #6 I think that throughout a trial, settlement may be more forthcoming based on attorneys' hearing juror questions.

These are representative negative comments from attorneys:

- #1 The jury should remain neutral throughout the trial, rather than making the witness feel they are being questioned by the fact finder.
- #2 The follow-up permits re-covering testimony already covered - and opens the door to introducing testimony on new subjects not previously covered, which can give an advantage to the attorney fortunate enough to have been served up with a question on an issue on which he needs to add testimony.
- #3 The adversary process presumes the ability of counsel to pose appropriate questions to witnesses at the appropriate time. The process has worked to produce fair and impartial results over the course of time. Injecting another layer of questioning has the potential negative effects of: 1) overemphasizing certain aspects of a witness's testimony; 2) injecting information that one or both counsel have avoided for tactical reasons; 3) risking testimony from a witness which goes beyond the specific question posed; and 4) extending the trial time with no measurable benefit in terms of just resolution of matters.
- #4 Part of the lawyering process is to know what questions to ask or not. When a juror asks a question that was specifically not asked by a lawyer it doesn't seem right to allow the lawyering strategy to dissolve.
- #5 The jury may have a question for one witness which may be much better answered by a later witness, and which the attorneys may have chosen not to pose to this particular witness. The manner in which the case unfolds is best left to the attorneys who know much more about the case.

Jurors

Juror responses to that same question showed overwhelming approval. Jurors welcomed the opportunity to question witnesses, irrespective of whether the individual juror actually submitted a question. Several jurors who wrote out

comments stated that knowing they could ask questions made them more attentive, especially when the judge allowed them to take notes. Several reported that they were assisted by the witnesses' answers to a juror's question, and several indicated that having had the opportunity to get answers to their questions actually shortened the deliberation time. That was a potential benefit we did not foresee, and did not ask about on the questionnaires. Finally, most jurors who had served on a jury before found this experience more satisfying.

Respectfully submitted,

The Jury Sub-committee of the Civil
Practice Committee

Hon. Barbara Byrd Wecker, Chair
Hon. Steven L. Lefelt
Hon. Catherine M. Langlois
Jeffrey Greenbaum, Esq.
Alan Y. Medvin, Esq.
Joseph Connor, Jr., Esq.
Michael Garrahan, Esq., AOC

4/25/01

Attachments

- Jury Pilot Project Guidelines (4 pages)
- Preliminary Instructions (2 pages)
- Final Instructions (1 page)
- Trial Judge Questionnaire (1 page)
- Attorney Questionnaire (2 pages; 2nd page for comments)
- Juror Questionnaire (1 page)
- Court Clerk's Report (1 page)

JURY PILOT PROJECT

At the end of the last term, the Civil Practice Committee recommended in its Supplemental Report to the Supreme Court (March 13, 1998), that the Court undertake a pilot project that would permit jurors to propose questions for witnesses to answer during trial. The Committee was advised that the Court would consider such a pilot, and this Subcommittee was charged with its design. This is the Subcommittee's proposal.

This proposal is based upon the perceived advantages of (1) increasing jurors' understanding of the evidence; (2) alerting the trial judge and the attorneys when a significant piece of evidence or testimony has been either omitted or misunderstood; (3) engaging jurors in the trial proceedings, thereby increasing juror satisfaction and attentiveness; and (4) increasing the likelihood that justice will be served by the jury verdict.

We have been guided in large part by the recommendations of the American Bar Association's Section of Litigation, set forth in its February 1998 publication, Civil Trial Practice Standards.¹ The Standards were "developed as guidelines to assist judges and lawyers who try civil cases in state and federal court." Id. at iv.²

The Standards are predicated on the recognition that, in an era of increasingly complicated evidence and litigation, there are methods for enhancing jury comprehension and minimizing jury

¹ With respect to the role of the jury, the Standards also address juror note-taking, which is now provided for by R. 1:8-8(b), as amended by the Court last term on the recommendation of the Civil Practice Committee; jury instructions, including preliminary substantive instructions; exhibit availability during deliberations, addressed by R. 1:8-8(a); juror notebooks; use of the verdict form, addressed by R. 4:39; post-trial attorney contact with jurors; and jury questionnaires and voir dire, which are presently the subject of another committee's charge.

² The Standards also address a number of other areas related to conduct of the trial, including the use of interim statements and arguments by counsel, which the Committee recommended and the Court accepted for inclusion in a pilot. The subcommittee decided to start with juror questions alone in this pilot.

confusion that merit wider consideration and use. These Standards are designed to furnish practical guidance for the implementation and use of many of these methods.

The Standards suggest a variety of approaches but recognize that ultimately the trial court must exercise its discretion in light of the circumstances before it, and nothing in these Standards limits that discretion. The Standards are drafted on the assumption that each litigant before the court is represented by counsel. The court's exercise of discretion will necessarily be affected if parties are appearing pro se. [Id.]

Our pilot is informed as well by the manual produced jointly by the ABA, the National Center for State Courts (NCSC), and the State Justice Institute, Jury Trial Innovations (Munsterman, et al., editors, 1997), which was also a significant source for the Standards.

Finally, we have been encouraged by the experience of other states, Arizona in particular, where many of the innovations discussed in the Standards and in the manual have been in regular use for a number of years. Judges Michael Dann, Michael Brown, and Barry Schneider of the Arizona Superior Court have shared with Judge Wecker their experience with the discretionary use of juror-submitted questions. We have also learned of a pilot presently being conducted in the Massachusetts Superior Court, which includes juror questions among a number of trial innovations proposed by the Standards. The Massachusetts pilot, now underway for several months, is sponsored in cooperation with a private non-profit foundation.³ Massachusetts is finalizing its own edition of the Standards, incorporating portions of the manual as well.

³ We are informed that the Massachusetts pilot involves ten or twelve Superior Court trial judges and an equal number of misdemeanor court judges, all of whom conduct jury trials.

Our proposed pilot is to be conducted as follows:

- (1) We will identify from representative vicinages ten to twelve judges who are assigned to civil jury trials for the 1999-2000 court term, and who express an interest in participating. We anticipate that several will be among those whose courtrooms are equipped with video-recording equipment.
- (2) The pilot will run for six months, from January through June 2000, with an informal evaluation and the opportunity for practice revisions midway through, probably in early April.
- (3) A one-day training session will be held in November, 1999, with the above-cited materials to be supplied to participating judges.
- (4) Each judge participating in the project will explain the project, its purpose and mechanics, to the trial attorneys before the start of trial, giving the attorneys the opportunity to express their concerns and questions, and any objection to including the trial in the pilot. However, attorney consent shall not be required. While the judge will retain discretion not to allow juror questions if the judge determines it would not be appropriate under all the circumstances, participating judges are encouraged to allow questions in each trial for the duration of the pilot project. Use of the technique is not limited to lengthy or complex trials.
- (5) In trials in which juror questions are permitted, each juror will be supplied with paper and pen (which may already have been done to allow notetaking) before the first witness is called. The judge will instruct the jurors that when the attorneys have finished their direct and cross examinations of each witness, each juror will have time to write out, on a separate sheet of paper, any question he or she would like that witness to answer before being excused. There will be no collaboration between jurors, and the unsigned questions, if any, will be collected by a court officer and given to the judge. The jurors and the witness will be excused or the judge and attorneys will go to sidebar while the judge places the questions on the record, one at a time, giving the attorneys the opportunity to object or to propose a modification to each question submitted.

- (6) The judge will ultimately determine whether each question shall be asked, and in what form. The witness and the jury will then be reassembled if they have been excused, and the judge will ask the witness those questions the judge ruled to be proper. Each attorney will be permitted to ask the witness follow-up questions prompted by the witness's answers to jurors' questions.
- (7) This design incorporates the procedural safeguards recommended by the Appellate Division in State v. Jumpp, 261 N.J. Super. 514, 531-33 (App. Div. 1993), certif. denied, 134 N.J. 474 (1993), affirming a murder conviction and rejecting defendant's contention that allowing a question from a juror unfairly prejudiced his defense. Nevertheless, the court recommended that trial courts withhold the practice until the Supreme Court establishes "precise guidelines and procedures." Id. at 534.

PRELIMINARY INSTRUCTIONS REGARDING JURORS' QUESTIONS

In this trial, after the lawyers have asked their own questions of each witness, I will give you an opportunity to write out any additional questions you may have for that witness. Any question you submit should be to clear up confusing testimony, to clarify the testimony the witness has given or to supply significant missing information. Your questions should not state an opinion, make critical or favorable comment, or express any view about the case. You may not argue with the witness through a question.

The Court Officer will collect your written questions and give them to me. I will then excuse the jury and the witness, while I discuss your questions with the lawyers. If I decide that any additional questions are proper, I will call the witness back to answer those questions in your presence.

Keep in mind that the rules of evidence or other rules of court may prevent me from allowing some questions. I will apply the same rules to your questions that I apply to the questions asked by lawyers. Some questions may be modified or rephrased. Some may be asked just as you have written them, and others may not be asked at all. If a question that you submitted is not asked, you should not take it personally, nor should you attach any significance to my decision not to allow the question.

I caution you not to treat jurors' questions or the answers to those questions differently than you would treat any other testimony. You are to carefully consider all of the testimony and other evidence in this case before deciding how much weight to give particular testimony.

Remember that you are neutral fact finders and not advocates for either party. You must keep an open mind until all of the evidence has been presented, the lawyers have concluded their summations, and you have received my instructions on the law. Then, in the privacy of the jury room, you will exchange views with your fellow jurors.

Any question you submit should be yours alone and not the product of discussion with any other juror. That is in keeping with my overall instruction that you must not discuss the case among yourselves until you have heard my final instructions on the law, and I have instructed you to begin your deliberations.

FINAL INSTRUCTIONS REGARDING JURORS' QUESTIONS

In this trial, I allowed you to submit certain questions that you wanted the witnesses to answer. Some were in fact asked and answered, and others were not asked. Keep in mind that the rules of evidence or other rules of court may have prevented me from allowing some questions. I have applied the same rules to your questions that I applied to the questions asked by the lawyers. Some questions may have been modified or rephrased. Some may have been asked just as you have written them, and others may not have been asked at all. If a question that you submitted was not asked, you should not take it personally, nor should you attach any significance to my decision not to allow the question. I caution you not to treat jurors' questions, or the answers to those questions, differently than you would treat any other testimony. You are to carefully consider all of the testimony and other evidence in this case before deciding how much weight to give particular testimony.

TRIAL JUDGE QUESTIONNAIRE

(To be completed promptly upon conclusion of the trial)

Case Name_____

Docket No._____ Today's date_____

1. Judge's Name _____

2. Subject of trial_____

3. Total length of trial from start of opening statements to end of final jury charge_____

4. Total number of witnesses_____
Plaintiff's?_____Defendant's?_____Other?_____(explain)

5. Did any juror submit a question for any witness? (Circle one)

Yes No (If "no," skip to question 13)

5a. If "yes," how many questions in total were submitted during the trial?_____

5b. How many to fact witnesses?_____

5c. How many to expert witnesses?_____

6. Did any attorney object to any question submitted by a juror? (Circle one)

Yes No

7. Did you exclude or modify any question in response to such an objection? (Circle one)

Yes No

8. Did you exclude or modify any question sua sponte? (Circle one)

Yes No

TRIAL JUDGE QUESTIONNAIRE

9. Did you allow any question submitted by a juror, either as submitted or with some modification? (Circle one)

Yes

No (If no, skip to question 13)

9a. If "yes," how many juror questions did you allow? ____

10. Did the attorneys ask follow-up questions of the witness after the witness answered a juror's question? (Circle one)

Yes

No

10a. If "yes," how many witnesses were asked follow-up questions?

11. How much of the total trial time listed in answer to question 3 above was a result of allowing the opportunity for juror questions (including time for attorney objections, follow-up questions, and any other extra time required as a result)?

12. In your opinion, did the jurors' opportunity to submit questions significantly affect:

a. juror attentiveness during the trial? (Circle one)

Yes

No

No opinion

b. juror understanding of the testimony? (Circle one)

Yes

No

No opinion

c. juror satisfaction with the process? (Circle one)

Yes

No

No opinion

d. the fairness of the trial? (Circle one)

Yes

No

No opinion

TRIAL JUDGE QUESTIONNAIRE

13. On a scale of 1 to 5, with 1 being very negative and 5 being very positive, how do you feel about the opportunity for jurors to submit questions in this trial? (Circle one)

1

2

3

4

5

14. Would you recommend that the opportunity for jurors to submit questions to witnesses be adopted for all civil trials? (Circle one)

Yes

No

15. Please feel free to add any comments or suggestions. (Use the reverse side of this sheet if you need more space).

[illegible]

ATTORNEY QUESTIONNAIRE

(To be completed promptly upon conclusion of the trial)

Please assist the Civil Practice Committee and the Supreme Court to evaluate the pilot project permitting jurors to submit questions for witnesses by completing this questionnaire before you leave the courtroom.

Case Name _____

Docket No. _____ Today's Date _____

Your name _____

Your office address _____

Your office telephone _____ Fax _____

Did you represent plaintiff, defendant, or another party? (Circle one) If another, describe _____

1. Judge's Name _____

2. Subject of trial _____

3. Total length of trial from start of opening statements to end of final jury charge _____

4. Total number of witnesses _____
Plaintiff's? _____ Defendant's? _____ Other? _____ (explain)

5. Did any juror submit a question for any witness?
(Circle one)

Yes No (If "no," skip to question 13)

5a. If "yes," how many questions in total were submitted during the trial? _____

5b. How many to fact witnesses? _____

5c. How many to expert witnesses? _____

ATTORNEY QUESTIONNAIRE

6. Did you or any other attorney object to any question submitted by a juror? (Circle one)

Yes No

7. Did the judge exclude or modify any question in response to such an objection? (Circle one)

Yes No

8. Did the judge exclude or modify any question sua sponte? (Circle one)

Yes No

9. Was any witness asked a question submitted by a juror? (Circle one)

Yes No (If no, skip to question 13)

9a. If "yes," how many juror questions did the judge allow?

10. Did the attorneys ask follow-up questions of the witness after the witness answered a juror's question? (Circle one)

Yes No

10a. If "yes," how many witnesses were asked follow-up questions?

11. How much of the total trial time listed in answer to question 3 above was a result of allowing the opportunity for juror question (including time for attorney objections, follow-up questions, and any other extra time required as a result)?

ATTORNEY QUESTIONNAIRE

12. In your opinion, did the jurors' opportunity to submit questions significantly affect:

a. juror attentiveness during the trial? (Circle one)

Yes No No opinion

b. juror understanding of the testimony? (Circle one)

Yes No No opinion

c. juror satisfaction with the process? (Circle one)

Yes No No opinion

d. the fairness of the trial? (Circle one)

Yes No No opinion

13. On a scale of 1 to 5, with 1 being very negative and 5 being very positive, how do you feel overall about the manner in which this trial was conducted? (Circle one)

1 2 3 4 5

14. On a scale of 1 to 5, with 1 being very negative and 5 being very positive, how do you feel about the opportunity for jurors to submit questions in this trial? (Circle one)

1 2 3 4 5

15. Would you recommend that the opportunity for jurors to submit questions to witnesses be adopted for all civil trials? (Circle one)

Yes No

16. Please feel free to add any comments or suggestions. (Use the reverse side of this sheet if you need more space).

JUROR QUESTIONNAIRE

(This questionnaire is to be anonymous. Do not write your name on this sheet).

1. Judge's Name _____
2. Length of trial_____ Today's Date _____
3. Subject of trial_____
4. Have you ever been a juror before? (Circle one)

YesNo
5. In this trial, did you submit any questions for any witness?
(Circle one)

YesNo
6. If you did, was any witness asked a question that you submitted, or
a similar question? (Circle one)

YesNo
7. Did any other juror submit questions? (Circle one)

YesNo
8. On a scale of 1 to 5, with 1 being very negative and 5 being very
positive, how do you feel overall about your experience as a juror
in this trial? (Circle one)

12345
9. Was the opportunity to submit questions for the witnesses helpful t
you in reaching a decision in this trial? (Circle one)

YesNo

- More satisfying Less satisfying No effect
11. Were you selected to serve as an alternate juror in this trial?
 Yes No
12. The court welcomes any comments or suggestions you may wish to
include about your experience as a juror generally and specifically
the opportunity you had in this trial to submit questions for the
witnesses. (Use the reverse side of this sheet if you need more
space).

[illegible]

Court Clerk's Report

Case Name_____

Docket No. _____

PLAINTIFF'S CASE¹

NAME OF WITNESS	FACT OR EXPERT	NUMBER OF QUESTIONS SUBMITTED	NUMBER OF QUESTIONS OBJECTED TO	NUMBER OF QUESTIONS ALLOWED

DEFENDANT'S CASE¹

NAME OF WITNESS	FACT OR EXPERT	NUMBER OF QUESTIONS SUBMITTED	NUMBER OF QUESTIONS OBJECTED TO	NUMBER OF QUESTIONS ALLOWED

¹If there is more than one plaintiff or defendant, use duplicate sheets and identify the party.